

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

March 24, 1999 Hearing Room 357

1:00 p.m. Tapes 73 - 76

MEMBERS PRESENT: Rep. Lane Shetterly, Chair

Rep. Max Williams, Vice-Chair

Rep. Judy Uherbelau, Vice-Chair

Rep. Vic Backlund

Rep. Randall Edwards

Rep. Kathy Lowe

Rep. Vicki Walker

Rep. Larry Wells

Rep. Bill Witt

STAFF PRESENT: Aaron Felton, Counsel

Nancy Richards, Administrative Support

MEASURE/ISSUES HEARD: HB 2321 - Public Hearing

HB 2805 - Public Hearing

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
TAPE 73, A		

003	Chair Shetterly	Call meeting to order at 1:07 p.m.
<u>HB 2321 - PUBLIC HEARING</u>		
012	Counsel Felton	HB 2321 exempts an attorney who is serving as a member of Legislative Assembly from performing continuing legal education as condition of membership in bar or as condition to practice of law.
023	Chair Shetterly	Discusses the history of HB 2321. Explains new credits are approved by the Minimum Continuing Legal Education (MCLE) Board for attorneys.
068	Rep. Lowe	States an ethical conflict regarding HB 2321.
077	Rep. Williams	States that there would be no conflict for any attorney in the legislature.
084	Sen. Kate Brown	State Representative, House District 7 Testifies in support of HB 2321. Discusses why legislative attorneys should receive MCLE credit.
107	Rep. Witt	Quotes from the Federalist Papers #57 by Alexander Hamilton and James Madison and discusses their quotes regarding credit exemption of legislative attorneys.
123	Sen. Brown	Explains the difference between a judge's work and an attorney's legislative work regarding obtaining credit for legal work during legislative session. Explains that HB 2321 could be changed to include anyone doing legislative work and applying for MCLE credit.
141	Rep. Uherbelau	Discusses other attorneys outside the legislature who receive MCLE credit for on-the-job experience. Explains that legislative work is not part time work.
169	Rep. Witt	Does the Oregon State Bar have the authority to grant MCLE credit?
169	Sen. Brown	I believe so.
170	Bob Oleson	Director of Public Affairs, Oregon State Bar Testifies and submits written testimony in support to HB 2321 (EXHIBIT A). Discusses the progress of the procedure in giving MCLE credit during 1998. States that the MCLE Board is not a part of the Oregon State Bar.
203	Steve Cyr	Minimum Continuing Legal Education Board Testifies in opposition to HB 2321. Discusses why the Oregon State Bar is

		opposed to HB 2321. Discusses the three concerns regarding MCLE credit.
263	Pat Haim	Minimum Continuing Legal Education Board Testifies in opposition to HB 2321. Discusses the inexpensive ways to gain MCLE credit. Explains the authority of the Oregon State Bar to amend the MCLE rules. Discusses blanket exemptions regarding MCLE credit.
329	Rep. Williams	States that it is very difficult for Lawyers to leave their practice to serve in the legislature. Asks about the Oregon Bar Convention participants receiving MCLE credit.
351	Mark Johnson	President, Oregon State Bar Testifies in opposition to HB 2321. Discusses why HB 2321 is not the solution to solving the problem of MCLE credit for legislative attorneys.
377	Chair Shetterly	Closes public hearing.
<u>HB 2805 n PUBLIC HEARING</u>		
370	Counsel Felton	HB 2805 provides civil immunity for statements made by person in course of participating in administrative, quasi-judicial or legislative proceeding conducted by public body.
401	Mitch Rohse	Oregon Department of Land Conservation and Development Testifies and submits written testimony in support of HB 2805 (EXHIBITS B & C). Explains the history of HB 2805. Discusses the three questions that the department has regarding "strategic lawsuits against public participation" (SLAPP) suits.
Tape 74, A		
040	Rohse	Discusses the questions that the Department of Land Conservation and Development has regarding SLAPP. States that Governor Kitzhaber supports HB 2805.
071	Rep. Uherbelau	Does HB 2805 apply to slanderous public statements?
079	Rohse	Yes, they would still apply.
080	Jeffrey Lamb	Oregon Communities For A Voice In Annexations (OCVA) Testifies and submits written testimony in support of HB 2805 (EXHIBIT D). States that the #1 goal of land use planning is citizen involvement. Discusses the

		threats towards OCVA because of policy opinions. Discusses the primary issue of HB 2805 regarding the intimidation toward OCVA. States that 10 states have passed legislation regarding anti-SLAPP suit legislation and 10 more are introducing such legislation. States that citizens will only participate if they feel their voices will be heard without being sued.
185	Rep. Kurt Schrader	State Representative, House District 23 Testifies in support of HB 2805. Discusses the history of HB 2805. Explains what HB 2805 will do to stop SLAPP lawsuits. Discusses and gives examples of how HB 2805 will give more people the courage speak out on public policy issues. Lists the groups that are susceptible to lawsuits.
282	Liz Frenkel	League of Womenís Voters Testifies and submits written testimony in support of HB 2805 (EXHIBIT E). Discusses and gives examples of how lawsuits intimidate those speaking in public against government issues.
319	Rep. Williams	Asks if HB 2805 protects individuals who make defamatory statements.
335	Rohse	States that HB 2805 does protect even those that make untrue statements. Discusses how many lawsuits are thrown out of court because they are frivolous. Discusses and gives examples of the three points of concern regarding SLAPP lawsuits.
400	Rep. Williams	Asks about the broad immunity that HB 2805 presents.
430	Lamb	Discusses and gives examples of other statutes that help those who speak out and are presented with a SLAPP suit. States that the SLAPP suits tend to intimidate citizens from speaking out against issues.
481	Rep. Williams	Asks about the broad sense of immunity that HB 2805 provides regarding slanderous statements.
Tape 73, B		
039	Lamb	Discusses the process of public policy regarding slanderous statements.
053	Rep. Williams	States that it is the role of the courts in determining slanderous statements. Expresses his concern regarding HB 2805 stopping lawsuits against people speaking out when there are already laws to protect them.
064	Rep. Schrader	States that current statutes do not provide enough immunity for making public statements. Discusses the types of hearings that HB 2805 will effect and that these hearings are for discerning the truth.

090	Rep. Witt	Discusses the broad language that HB 2805 provides regarding protecting slanderous remarks. Asks why a standard has not been adopted which would grant protections for public statements, but not include defamatory statements.
112	Rep. Schrader	States that HB 2805 is a model of other state's laws regarding immunity of public statements.
115	Rep. Witt	Asks if there is anybody who would object to an amendment that would protect public statements, but exclude defamatory statements.
119	Rep. Schrader	States that there would be an acceptance of amendments providing immunity for slanderous remarks except when it involves defamatory statements.
126	Rep. Uherbelau	Asks if there is a copy of the original proposal (LC 798) drafted by Legislative Counsel regarding immunity and if Legislative Counsel could give testimony about the purpose of the original proposal.
139	Rohse	Discusses the revisions made to LC 798 regarding complete immunity of public statements.
173	Chair Shetterly	Discusses a case where defamatory statements were not material to the court proceeding and the immunity would be absolute.
201	Portia Foster	Citizen, State of Oregon Testifies and submits written testimony in support of HB 2805 (EXHIBIT F). Discusses the experience of being sued for slanderous remarks and the expenses involved. Expresses her support for HB 2805 regarding public participation in public speaking.
331	Rep. Williams	Do you believe that the definition in HB 2805 regarding what circumstances immunity is offered for public statements includes letters to the editor of a newspaper?
340	Foster	Discusses how the letter to the editor was an effort to publicize the circumstances of the SLAPP suit.
354	Rep. Williams	Asks whether a letter to the editor qualifies in the intent of HB 2805. Did you file an action with the Government Standards and Practice Commission (GSPC)?
364	Foster	Yes, we did. States that some citizens filed an appeal to the Oregon State Bar which was dismissed.
370	Rep. Williams	What action did the GSPC take?

371	Foster	Explains why the GSPC dismissed the action.
385	Foster	Explains the circumstances of the dismissal by GSPC.
394	Rep. Lowe	Asks what land was involved in the lawsuit.
395	Foster	States that it was land just north of Adobe in Yachats, Oregon. States that the city of Yachats lied as to whom owned the land.
406	Rep. Lowe	States a possible conflict with the HB 2805 hearing.
420	Charlotte Mills	Citizen, Yachats, Oregon Testifies and submits written testimony in support of HB 2805 (EXHIBIT G). Discusses the impact the broad language of HB 2805 has regarding the immunity of public statements. Discusses the role newspapers have in immunity of public statements.
Tape 74, B		
040	Mills	Discusses two quotes regarding the responsibilities of a free press. Discusses and gives examples of SLAPP suits regarding public statements. Discusses the decision of the Supreme Court in the 1960s called the <u>New York Times vs Sullivan</u> . Gives a profile of five lawsuits regarding SLAPP suits. Discusses the five things that need to happen to protect civil rights.
197	Jerry Scott	Vice-Chair of City Watch Testifies in support of HB 2805. Discusses a case regarding a SLAPP suit. States that voter pamphlet statements and letter to the editors are voices of the average citizens.
246	Michael Sheehan	Scappoose-Spitzenberg Citizen Planning Advisory Committee Testifies and submits written testimony in support of HB 2805 (EXHIBIT H). Discusses two cases regarding SLAPP suits. Discusses the three ongoing major attacks on public participation regarding land use.
308	Rep. Williams	Do you agree with the principle regarding the protection of a public official from slander and libel?
314	Sheehan	Agrees with the principle in general. Discusses lawsuits that are protected when public officials are involved. Discusses the problem of using the SLAPP suit to stop citizens from speaking out.
339	Rep. Witt	Asks if HB 2805 will encourage slander.

345	Sheehan	Discusses using SLAPP suits to stifle public participation States that exempting libel and slander doesn't protect the average citizen.
365	Rep. Uherbelau	Asks about a provision that would allow absolute immunity for protecting the average public participation, but would add attorney fees if the person did not prove that the suit was libel or slanderous.
382	Sheehan	States that most people will be dissuaded to speak out if they have to litigate to the end of a court case.
390	Rep. Uherbelau	Wouldn't an absolute immunity provision inhibit those making the false libel suits?
393	Sheehan	It would. Explains that the cost of the court case would cause the citizen to drop out of a SLAPP suit.
406	Scott	Suggests that damages on a SLAPP suit could be added if the suit was proven unworthy.
419	Jim Thompson	Oregon Communities For A Voice In Annexations (OCVA) Testifies and submits written testimony in support of HB 2805 (EXHIBIT I). Discusses the correlation between union meetings and frivolous lawsuits.
Tape 75, A		
030	Sid Friedman	Citizen, Yamhill County Testifies and submits written testimony on behalf of Vic Affolter in support of HB 2805 (EXHIBIT J). Discusses the case of Mary McKay regarding public participation. Discusses the case of Vic Affolter regarding public participation. Discusses litigation that discourages citizens from speaking out.
079	Larry DeBates	Citizen, State of Oregon Testifies and submits written testimony in support of HB 2805 (EXHIBIT K). Discusses proposed legislation that was sent to the Land Conservation Development Commission regarding immunity for public participation. Discusses the two issues regarding the judge's authority to dismiss SLAPP cases and that HB 2805 should include all public debate.
127	Henry Reeves	Citizen, State of Oregon Testifies in support of HB 2805. Discusses a case regarding a SLAPP suit. Discusses the immunity of the legislature that is not given to the citizens regarding public statements.
187	Peggy Lynch	Citizen, Benton County

		Testifies and submits written testimony in support of HB 2805 (EXHIBIT L). Discusses the importance of HB 2805 regarding immunity from SLAPP suits.
229	Jim Lvowick	Citizen, Yamhill County Testifies in support of HB 2805. Discusses three proposed changes that would improve HB 2805 regarding SLAPP suits.
263	Katie Kohl	Citizen, Lane County Testifies and submits written testimony in support of HB 2805 (EXHIBIT M). Discusses SLAPP suits against volunteer leaders.
307	James Monroe	Citizen, State of Oregon Testifies and submits written testimony in support of HB 2805 (EXHIBIT N). Discusses and gives examples of frivolous lawsuits regarding slanderous remarks.
397	Randy Roop	Citizen, State of Oregon Testifies and submits written testimony in behalf of Hazel Stevens in support of HB 2805 (EXHIBIT O). Discusses two cases regarding SLAPP suits.
Tape 76, A		
030	Roop	Discusses the two cases regarding SLAPP suits. Expresses his support of HB 2805 to provide freedom of speech. States that Lloyd Marbet of Oregon Conservancy Foundation supports HB 2805.
057	Jeffery Watkins	Sierra Club Testifies and submits written testimony in support of HB 2805 (EXHIBITS P & Q). Discusses how HB 2805 effects the Sierra Club. Discusses the sacrifice that citizens make to participate in the hearing process.
084	Evan Manvel	1000 Friends of Oregon Testifies and submits written testimony in support of HB 2805 (EXHIBIT R). Discusses slanderous public statements. Discusses statutes in other states with statutes regarding immunity for public participation.
135	John Englebret	Citizen, State of Oregon Testifies in support of HB 2805. Discusses how HB 2805 supports free speech.
171	John Chandler	Director, Governmental Affairs of the Oregon Building Association Testifies in support of HB 2805. Discusses the situations where citizenís rights

		are challenged. Discusses the concern with HB 2805 having too broad of language regarding the problem of SLAPP suits.
232	Chair Shetterly	Adjourns meeting at 3:40 p.m.

Submitted By, Reviewed By,

Nancy Richards, Aaron Felton,

Administrative Support Counsel

EXHIBIT SUMMARY

- A - HB 2805, Written testimony, Bob Oleson, p. 1**
- B - HB 2805, Written testimony, Mitch Rohse, p. 9**
- C - HB 2805, Legislative Summary on SLAPP suits, Mitch Rohse, booklet**
- D - HB 2805, Written testimony, Jeffrey Lamb, p. 2**
- E - HB 2805, Written testimony, Liz Frenkel, p. 1**
- F - HB 2805, Written testimony, Portia Foster, p. 2**
- G - HB 2805, Written testimony, Charlotte Mills, p. 7**
- H - HB 2805, Written testimony, Michael Sheehan, p. 3**
- I - HB 2805, Written testimony, James Thompson, p. 2**
- J - HB 2805, Written testimony, Vic Affolter, p. 1**
- K - HB 2805, Written testimony, Larry DeBates, p. 3**
- L - HB 2805, Written testimony, Peggy Lynch, p. 1**
- M - HB 2805, Written testimony, Katie Kohl, p. 1**

N - HB 2805, Written testimony, James Monroe, p. 2

O - HB 2805, Written testimony, Hazel Stevens, p. 2

P - HB 2805, Written testimony, Jeff Watkins, p. 1

Q - HB 2805, Written testimony, Jeff Watkins, p. 1

R - HB 2805, Written testimony, Evan Manvel, p. 9

S - HB 2805, Written testimony, Alice Blatt, p. 1

T - HB 2805, Written testimony, Matt Jarvis, p. 2

U - HB 2805, Written testimony, May Dasch, p. 1

V - HB 2805, Written testimony, Gary Feuerstein, p. 1

W - HB 2805, Written testimony, Mickey Killingsworth, p. 1

X - HB 2805, Written testimony, Douglas DePriest, p. 2

Y - HB 2805, Written testimony, Jerry Ritter, p. 2

Z - HB 2805 Written testimony, Shan Gordon, p. 1

AA - HB 2805, Written testimony, Blanda Sanders, p. 2

BB - HB 2805, Written testimony, Courtney Scott, p. 1

CC - HB 2805, Written testimony, Marvin Durham, p. 2

DD - HB 2805, Written testimony, Mark Tipperman, p. 1

EE - HB 2805, Written testimony, Kevin Frostad, p. 1

FF - HB 2805, Written testimony, John Leeper, p. 1

GG - HB 2805, Written testimony, Carol Gearin, p. 1

HH - HB 2805, Written testimony, Thor Hinckley, p. 1

II - HB 2805, Written testimony, Brian Beinlich, p. 1

JJ - HB 2805, Written testimony, Steve Hamlin, p. 2

KK - HB 2805, Written testimony, Joe Kuehn, p. 1

